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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,788	02/13/2002	Bruce H. Hauser	P00526-US1	9156

3017 7590 04/11/2003

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EXAMINER

THOMAS, ALEXANDER S

ART UNIT	PAPER NUMBER
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1772

DATE MAILED: 04/11/2003

3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/075,788

Applicant(s)

HAUSER, BRUCE H.

Examiner

Alexander S. Thomas

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1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) 19-32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-18, drawn to an article, classified in class 428, subclass 122.

II. Claims 19-32, drawn to a process, classified in class 156, subclass 60.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process can be used to make a different article such as one wherein the carrier is adhered to the clips by weaving the carrier onto the clips.

3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Mr. Josephs on January 28, 2003 a provisional election was made without traverse to prosecute the invention of Group I, claims 1-18. Affirmation of this election must be made by applicant in replying to this Office action. Claims 19-32 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Claims 3, 7 and 9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention. In claim 3 there is no antecedent basis for the term "the filler material".

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3-5, 8, 10-17 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Cook et al ('567). See column 1, lines 16-30, column 2, lines 55-57, column 3, lines 31-32 and column 5, lines 36-39. Concerning claim 14, the area of the carrier wires at the bend or just before the bend may be considered to be angled inward since it is not clear where the bend begins and the angling inward of the carrier wire begins.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 6 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al. The reference discloses the invention substantially as claimed; see column 1, lines 16-30, column 2, lines 55-57, column 3, lines 31-32 and column 5, lines 36-39. However it does not disclose the claimed shape of the clip wire and carrier wire. The

reference does suggest various shapes of wire and states that any shape may be used. Therefore, it would have been obvious to one of ordinary skill in the art to use a wire of any shape in the article of the reference to produce the desired physical properties for a particular end use in the absence of unexpected results attributable to the claimed shape.

10. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al in view of Keys. The primary reference discloses the invention substantially as claimed; see column 1, lines 16-30, column 2, lines 55-57, column 3, lines 31-32 and column 5, lines 36-39. However it does not disclose the use of a filler material. The secondary reference discloses the use of a filler material to prevent "hungry horse"; see the paragraph bridging columns 1 and 2. It would have been obvious to one of ordinary skill in the art to use a filler in the article of Cook et al in view of the teachings of Keys to provide a smooth outer surface.

11. Claims 7 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cook et al as applied to claims 1, 3-5, 8, 10-17 above, and further in view of applicant's acknowledged state of the art or Kenney et al ('198). Applicant acknowledges that the use of sealing elements on one leg of a U-shaped seal is well known in the art (see page 2, paragraph no. 5, of the instant specification) and Kenney et al shows such a structure in Figure 5.

12. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Weichman ('033) in view Cook et al ('567). The primary reference discloses the invention substantially as claimed; see Figure 3. Figure 3 shows clip wires that are

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angled adjacent to the bends. However it does not disclose the use of an adhesive to connect the clip wires to the carrier wires. Keys discloses the use of adhesive to make such a connection; see column 3, lines 27-32. It would have been obvious to one of ordinary skill in the art to use adhesive to adhere the clips to the carrier wire in the article of the primary reference in view of the teachings of the secondary reference to provide the desired structural integrity.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alexander S. Thomas whose telephone number is 703-308-2421. The examiner can normally be reached on M-F 6:00-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 703-308-4251. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9310 for regular communications and 703-872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0661.

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ALEXANDER S. THOMAS  
PRIMARY EXAMINER